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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,523	10/02/2003	Edward Barkan	1531	9336

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EXAMINER

FRANKLIN, JAMARA ALZAIDA

ART UNIT PAPER NUMBER

2876

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/677,523

Applicant(s)

BARKAN ET AL.

Examiner

Jamara A. Franklin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Acknowledgment is made of the amendment filed on 7/13/05. Claims 7-12 are currently pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saegusa (6,076,735) in view of Sansone (US 3,928,759) and Knowles et al. (US 5,216,232) (hereinafter referred to as 'Knowles').

Saegusa teaches an arrangement and method for scanning indicia associated with objects

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passing in an advancement direction across a single horizontal window of a point-of-transaction workstation at which the indicia are to be electro-optically read, the arrangement comprising:

a rotary mirrored component (rotary scan mirror 7) rotatable about an axis (rotational axis 6);

a plurality of stationary, folding mirrors (first fixed mirrors 8A-8C and second fixed mirrors 26A, 26B1, and 26B2) arranged generally about the axis;

a light source (laser beam source 1) for generating a light beam (laser beam 2);

a drive (motor 114) for rotating the rotary component to sweep the light beam across the stationary mirrors and form a scan pattern of scan lines (scanning lines 11A-11C, 13A-13C, 27A, 27B, 28A, and 28B) at and past the window and onto multiple surfaces of each object;

at least one of the stationary mirrors (fixed mirrors 26B1 and 26B2) being located behind the rotary component, as considered downstream of the advancement direction (advancing direction 14), for reflecting at least one of the scan lines (scanning lines 27B and 28B) at a trailing surface of each object (col. 6, lines 36-41);

the arrangement wherein the rotary component has a plurality of planar mirrors arranged about the axis (col. 6, lines 4-10); and

the arrangement wherein the indicia are bar code symbols (bar code 15) orientable on the objects between mutually orthogonal orientations, and wherein said at least one stationary mirror reflects said at least one scan line to sweep a symbol oriented in one of said orientations; and wherein at least another of the stationary mirrors is located behind the rotary component, as considered downstream of the advancement direction, for reflecting another of the scan lines at

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the trailing surface of each object to sweep a symbol oriented in the other of said orientations (see figure 3 and col. 6, lines 42-62).

Saegusa lacks the teaching of an oscillating mirror.

Sansone teaches an arrangement for scanning indicia comprising:

an oscillating mirror (mirror 48) mounted for oscillation between a light source (laser 16a) and a rotary component (mirror 54), and an oscillator (scan mirror driver 52) for oscillating the oscillating mirror to move the scan pattern relative to the window (col. 3, lines 29-40); and

the arrangement wherein the oscillator oscillates the oscillating mirror over an arcuate distant on the order of 1 degree and at a frequency on the order of 40 Hz.

One of ordinary skill in the art would have readily recognized that providing the Saegusa invention with an oscillating mirror would have been beneficial for creating a broad scan pattern since the oscillating mirror expands the reach of the beam which it reflects. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Saegusa with the oscillating mirror as taught by Sansone to create a scan pattern capable of reading a bar code from a range of locations.

Saegusa/Sansone lack the teaching of the rotary mirrored component having a plurality of planar tilted mirrors.

Knowles teaches an arrangement for scanning indicia having a rotary mirrored component having a plurality of planar tilted mirrors tilted at different angles of inclination relative to the axis (col. 6, lines 51-66).

One of ordinary skill in the art would have readily recognized that providing the Saegusa/Sansone invention with a rotary mirrored component having a plurality of planar tilted

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mirrors would have been beneficial for maximizing a scan beam's area of coverage, thereby increasing the productivity of the point-of-transaction workstation. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Saegusa/Sansone with the aforementioned teaching of Knowles.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

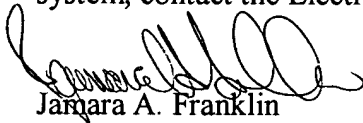
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jamara A. Franklin
Examiner
Art Unit 2876

JAF
August 10, 2005



DIANE I. LEE
PRIMARY EXAMINER